

Message Text

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71-60

ORIGIN EB-07

INFO OCT-01 ARA-06 IO-10 ISO-00 TRSE-00 CIAE-00 DODE-00

NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00 FEA-01 AGR-05

CEA-01 COME-00 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

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TO AMEMBASSY MEXICO IMMEDIATE

INFO USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ETRD, MX

SUBJECT: COUNTERVAILING DUTY INVESTIGATIONS -- STEEL PLATE
AND PROCESSED ASPARAGUS FROM MEXICO

REF: A) STATE 153606, B) A-4807, C) STATE 156730,
D) STATE 183682

SUMMARY: TREASURY HAS DETERMINED THAT BOUNTIES OR GRANTS
WITHIN MEANING OF U.S. COUNTERVAILING DUTY LAW ARE NOT
BEING PAID TO MEXICAN EXPORTERS OF PROCESSED ASPARAGUS
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AND WILL THEREFORE ISSUE NEGATIVE DETERMINATION IN

ASPARAGUS CASE. TREASURY HAS ALSO DETERMINED THAT A FREIGHT REBATE PAID BY GOM TO MEXICAN STEEL PLATE EXPORTERS

IS A SUBSIDY UNDER THE LAW AND WILL MAKE POSITIVE DETERMINATION THAT BOUNTY OR GRANT EXISTS. HOWEVER, TREASURY WILL WAIVE COUNTERVAILING DUTY UNDER WAIVER AUTHORITY OF TRADE ACT OF 1974. GOM OFFICIALS IN WASHINGTON ADVISED LATE YESTERDAY EVENING OF DECISIONS, BUT DETERMINATIONS WILL NOT BE MADE PUBLIC FOR SEVERAL DAYS. POST WILL BE ADVISED OF PUBLICATION ASAP. END SUMMARY.

1. TREASURY ASSISTANT SECRETARY MACDONALD ADVISED MEXICAN OFFICIALS (EMBASSY OFFICERS AND LIC. ABEL GARRIDO RUIZ,

MEXICAN REP AT MTN) LATE DECEMBER 22 THAT FINAL DETERMINATION IN PROCESSED ASPARAGUS CASE WOULD BE NEGATIVE. AS EMBASSY AWARE PRELIMINARY POSITIVE DECISION ISSUED LAST JULY, PRIMARILY BECAUSE GOM HAD NOT AT THAT TIME PROVIDED INFORMATION REQUIRED BY TREASURY IN MAKING DETERMINATION. (REF C).

2. REGARDING STEEL PLATE CASE, TREASURY HAD ISSUED PRELIMINARY NEGATIVE DETERMINATION LAST JULY. (REFS A,B,C) ALTHOUGH TREASURY DETERMINED THAT A SMALL FREIGHT SUBSIDY WAS BEING PAID BY GOM, IT WAS CONSIDERED SO SMALL AS TO BE "DE MINIMUS" AND NOT THEREFORE A "BOUNTY OR GRANT" WITHIN MEANING OF LAW. HOWEVER, SUBSEQUENT ASSESSMENT OF DATA REVEALED SUBSIDY TO BE LARGER. SIZE OF COUNTERVAILING DUTY (.6 PERCENT RPT POINT SIX PERCENT) ALTHOUGH STILL SMALL CANNOT AS LEGAL MATTER BE JUDGED TO BE A DE MINIMUS AMOUNT THUS NECESSITATING FINAL POSITIVE DETERMINATION. HOWEVER, TREASURY, IN CONSULTATIONS WITH GARRIDO, AGREED TO ISSUE FINAL AFFIRMATIVE COUPLED WITH A DETERMINATION TO WAIVE ASSESSMENT OF COUNTERVAILING DUTIES UNDER TEMPORARY WAIVER PROVISIONS OF THE TRADE ACT OF 1974. THIS FOLLOWED EARLIER ATTEMPTS TO OBTAIN ASSURANCES FROM MEXICAN EXPORTERS OF STEEL PLATE THAT THEY WOULD NOT RECEIVE FREIGHT SUBSIDIES WHICH WOULD HAVE ENABLED TREASURY TO ISSUE FINAL NEGATIVE DETERMINATION. HOWEVER, GARRIDO STATED THAT UNDER CIRCUMSTANCES FINAL POSITIVE LIMITED OFFICIAL USE

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DETERMINATION TOGETHER WITH WAIVER MOST ACCEPTABLE SOLUTION. HE EXPRESSED VIEW THAT ARRANGEMENT TO WAIVE COUNTERVAILING DUTY WOULD HELP DIFFUSE POTENTIAL PROBLEMS STEMMING FROM AN AFFIRMATIVE DECISION.

3. THE TRADE ACT OF 1974 AUTHORIZES THE SECRETARY OF THE TREASURY TO WAIVE TEMPORARILY COUNTERVAILING DUTIES WHERE
1) THE ADVERSE EFFECT OF THE SUBSIDY HAS BEEN ELIMINATED

OR REDUCED, 2) THERE IS THE POSSIBILITY THAT AN INTERNATIONAL AGREEMENT WILL BE NEGOTIATED PROVIDING FOR THE REDUCTION OR ELIMINATION OF BARRIERS TO OR OTHER DISTORTIONS OF INTERNATIONAL TRADE, AND 3) IMPOSITION OF COUNTERVAILING DUTIES WOULD JEOPARDIZE THE SATISFACTORY COMPLETION OF SUCH NEGOTIATIONS. AUTHORITY FOR THE TEMPORARY WAIVER EXTENDS TO JANUARY 3, 1979, AND THE WAIVER IS SUBJECT TO REVIEW. IN ADDITION, THE CONGRESS HAS AUTHORITY TO OVERRIDE A WAIVER.

4. IN DISCUSSING DECISIONS WITH GOM OFFICIALS, EMBASSY MAY WISH TO EMPHASIZE THAT DETERMINATIONS ARE ANOTHER EXAMPLE OF FAIR AND IMPARTIAL HANDLING OF CVD CASES BY TREASURY DEPARTMENT IN ADDITION TO EXPRESSION OF TREASURY'S WILLINGNESS TO USE LIMITED DISCRETION

AVAILABLE TO IT UNDER TRADE ACT WHEN WARRANTED BY CIRCUMSTANCES. DECISIONS REACHED FOLLOWING FULL CONSULTATIONS WITH MEXICAN AUTHORITIES. EMBASSY MAY ALSO EXPRESS APPRECIATION FOR COOPERATION OF GOM IN PROVIDING DATA REQUIRED FOR INVESTIGATIONS. KISSINGER

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